



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.
Washington, D.C. 20240

MAY 23 2008

Re: Swander's Grocery Building, 517 Seventh St., Rapid City, South Dakota
Project Number:

Dear

My review of your appeal of the decision of Technical Preservation Services, National Park Service, denying certification of the rehabilitation of the property cited above is concluded. The appeal was initiated and conducted in accordance with Department of the Interior regulations (36 CFR Part 67) governing certifications for Federal income tax incentives for historic preservation as specified in the Internal Revenue Code. Thank you for meeting with me in Washington on May 8, 2008, and for providing a detailed account of the project.

After careful review of the complete record for this project, I have determined that the rehabilitation of the Swander's Grocery Building is consistent with the historic character of the property and the historic district in which it is located, and that the project meets the Secretary of the Interior's Standards for Rehabilitation. Therefore, the denial issued on July 23, 2007, by Technical Preservation Services (TPS), is hereby reversed.

Built in 1905-1906, Swander's Grocery is located in the Rapid City Commercial Historic District, and was certified as contributing to the significance of the district on January 26, 2004. The proposed rehabilitation of this "certified historic structure" was found not to meet Standard 2 of the Secretary of the Interior's Standards for Rehabilitation owing to the planned insertion of a partition and a new stair behind one of the storefronts.

I agree with TPS that such changes would normally impair the openness characteristic of storefronts in historic commercial buildings, and would thus cause a rehabilitation to contravene Standard 2, which states: *"The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided."* However, photographs presented at our meeting of the nearly completed project show that neither the partition for the conference room nor the new stair has obscured the storefront or diminished its role in the building as a whole.

The new conference room partition parallel to the street is set back from the storefront windows a significant distance. The new conference room partition perpendicular to the street joins the storefront at a mullion at the rear of the inset entrance, and thus is set back from the plane of the large display windows. The upper portions of both partitions are glazed so that the extent of the original ceiling plane is visible from either side. While partitioning off a room immediately behind a storefront is not a recommended treatment, I find that the location, alignment, and

glazing of the upper portion of the conference room partitions do not diminish the character of the space sufficient to cause the overall project to fail to meet the Standards.

As you mentioned during our meeting, the new stair represents a solution to a difficult code compliance problem caused by the fact that this former grocery store shares a central stair with the adjacent former Security Savings Bank. However, please note that "The Secretary's Standards for Rehabilitation take precedence over other regulations and codes in determining whether the rehabilitation project is consistent with the historic character of the property," [36 CFR Part 67.7]; thus, I could not approve this project unless it otherwise met the Standards for Rehabilitation. I agree that the new stair is placed at the only location that would allow the central stair and its exterior door to remain largely unaltered, and for the stairs to remain as the primary access to the second floor of both buildings. I find the stair design to be contemporary but compatible, simple and unobtrusive, with light structural members and thin railings to make it as transparent as possible. The storefront side is painted black to further minimize its visibility from the street. Accordingly, I find the new stair to be consistent with the Standards.

Although I am reversing the National Park Service's denial of certification, the project will not become a "certified rehabilitation" eligible for the tax incentives until it is completed and so designated. Further, our regulations provide that final action cannot be taken on any application until the requisite fee for processing rehabilitation requests has been paid. Please fill out the enclosed Request for Certification of Completed Work and submit it through the South Dakota State Historical Society to TPS, which will advise you regarding the correct remittance. Should you have any questions concerning procedures for final certification, please contact of that office at 202-354-2031.

As Department of the Interior regulations state, my decision is the final administrative decision regarding rehabilitation certification. A copy of this decision will be provided to the Internal Revenue Service. Questions concerning specific tax consequences of this decision or interpretations of the Internal Revenue Code should be addressed to the appropriate office of the Internal Revenue Service.

Sincerely,

A handwritten signature in dark ink, appearing to read "John A. Burns", with a stylized, flowing script.

John A. Burns, FAIA
Chief Appeals Officer
Cultural Resources

Enclosure

cc SHPO-SD
IRS